

## **JONATHAN WITMER-RICH**

Cleveland-Marshall College of Law, Cleveland State University  
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### **FACULTY POSITIONS**

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#### **Cleveland-Marshall College of Law, Cleveland State University**

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| Associate Dean for Academic Enrichment               | 2019-present |
| Joseph C. Hostetler—Baker Hostetler Professor of Law | 2016-present |
| Professor of Law                                     | 2018-present |
| Associate Professor of Law                           | 2014-2018    |
| Assistant Professor of Law                           | 2009-2014    |

Courses: Criminal Law, Criminal Procedure I, Criminal Procedure II,  
Legal Responses to Terrorism, Serial Season 3: Understanding and Reforming the  
Criminal Justice Process

#### Awards:

- 2019, 2015 Faculty of the Year Award (student-selected)
- 2019 CSU Distinguished Faculty Award for Outstanding Service
- 2019 CSU Golden Apple Award (for teaching excellence)
- 2015 Cleveland-Marshall Alumni Association Stapleton Award for Faculty Excellence
- 2010 Ohio Faculty Innovator Award from Chancellor of the Ohio Board of Regents

#### **Case Western Reserve University School of Law**

Adjunct Professor of Law 2008

### **EDUCATION**

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#### **University of Michigan Law School, J.D., *magna cum laude*, December 2000**

- Maurice Weigle Scholarship Award
- Certificates of Merit in Criminal Law, Contracts, Labor Law, Legal Ethics
- Order of the Coif
- *Michigan Law Review*, Associate Editor, 1999-2000; Contributing Editor, 2000-2001

**Goshen College, B.A.**, December 1997

### **LEGAL EXPERIENCE**

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**Research & Writing Attorney**, Federal Public Defender, N.D. Ohio, 2006-2009

**Associate**, Jones Day (Cleveland), 2003-2006

## **Judicial Clerk**

- Hon. Joseph R. Goodwin, U.S. District Court for the S.D. West Virginia, 2002-2003
- Hon. M. Blane Michael, U.S. Court of Appeals for the Fourth Circuit, 2001-2002

## **PUBLICATIONS & WORKS IN PROGRESS**

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*Reforming the High-Stakes Gamble of Covert Government Seizures*, 69 DRAKE LAW REVIEW 401 (2021)

*Consentability, Autonomy, and Self-Actualization*, 66 LOYOLA LAW REVIEW 75 (2020) (essay in reply to Nancy Kim, *CONSENTABILITY: CONSENT AND ITS LIMITS* (Cambridge UP 2019))

*The Defense of Duress to Killing Innocents: Assessing the Mixed Legacy of the ICTR and ICTY* (book chapter) in *THE LEGACY OF AD HOC TRIBUNALS IN INTERNATIONAL CRIMINAL LAW: ASSESSING THE ICTY'S AND THE ICTR'S MOST SIGNIFICANT LEGAL ACCOMPLISHMENTS*, Michael Scharf and Milena Sterio, eds. (Cambridge UP 2019)

*Cuyahoga County Bail Task Force: Report and Recommendations*, March 16, 2018 (principal drafter)

*The Heat of Passion and Blameworthy Reasons to be Angry*, 55 AMERICAN CRIMINAL LAW REVIEW 409 (2018)

*Restoring Independence to the Grand Jury: A Victim Advocate for Police Use of Force Cases*, 65 CLEVELAND STATE LAW REVIEW 535 (2017) (symposium article)

*Unpacking Affirmative Consent: Not as Great as You Hope, Not as Bad as You Fear*, 49 TEXAS TECH LAW REVIEW 57 (2016) (symposium article)

*Arbitrary Law Enforcement is Unreasonable*, 66 CASE WESTERN RESERVE LAW REVIEW 1059 (2016) (symposium article)

*"Sneak and Peek" Searches: Critique and Reform*, 42 SEARCH AND SEIZURE LAW REPORT 83 (2015)

*The Fatal Flaw of the "Sneak and Peek" Statute and How to Fix It*, 65 CASE WESTERN RESERVE LAW REVIEW 121 (2014)

*The Rapid Rise of "Sneak and Peek" Searches, and the Fourth Amendment "Rule Requiring Notice,"* 41 PEPPERDINE LAW REVIEW 509 (2014)

*It's Good to be Autonomous: Prospective Consent, Retrospective Consent, and the Foundation of Consent in the Criminal Law*, 5 CRIMINAL LAW & PHILOSOPHY 377 (2011) (peer-reviewed)

*Interrogation and the Roberts Court*, 63 FLORIDA LAW REVIEW 1189 (2011)

*Corporate Complicity Claims: Why There Is No “Innocent Decision-Maker” Exception To Imputing An Officer’s Wrongdoing To A Bankrupt Corporation*, 74 TENNESSEE LAW REVIEW 47 (2007) (with Mark Herrmann)  
-Cited with approval, *In re CBI Holding Co.*, 529 F.3d 432, 447 n.5 (2d Cir. 2008)

## **PRESENTATIONS**

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*Mass Surveillance and The Right to Be Secure in Your Person*, CrimFest 2019, Brooklyn School of Law, July 16, 2019

*Facial Recognition and Privacy Workshop*, Cleveland-Marshall College of Law, Cleveland, Ohio, March 27, 2019 (conference co-organizer and panel moderator)

*Raised in the System: Re-Examining Juvenile Justice with Michael K. Williams*, Cleveland-Marshall College of Law, Cleveland, Ohio, November 29, 2018 (moderator)

*Professors Take on the Serial Podcast*, Cleveland Public Library, Cleveland, Ohio, November 28, 2018

*Bail Reform Update*, Annual Criminal Law Seminar, Lorain County Bar Association, November 13, 2018

*Police Worn Body Cameras: Legal and Policy Issues*, Cuyahoga County Common Pleas Court Judicial Retreat, October 26, 2018

*Covert Seizures and Government Incitement of Violence*, CrimFest 2018, Cardozo School of Law, July 17, 2018

*Affirmative Consent and the Socio-Linguistic Evolution of Legal Concepts*, ABA Criminal Justice Section and the AALS Section on Criminal Justice’s Joint Legal Educators Colloquium: Round Table Workshop, Washington, D.C., November 2, 2017

*CSU TEDx Salon: The Resurgent City*, Cleveland State University, March 31, 2017 (speaker)

*A Victim Advocate for Police Use of Force Cases*, Symposium: The Role of the Prosecutor and the Grand Jury in Police Use of Deadly Force Cases, Cleveland-Marshall College of Law, November 18, 2016 (presenter, moderator, symposium organizer)

*Open Carry Loopholes*, ABA Criminal Justice Section and the AALS Section on Criminal Justice’s Joint Legal Educators Colloquium: Round Table Workshop, Washington, D.C., November 3, 2016

*Cell Phones, Terrorism, and Privacy: Can the Government Force Apple to Unlock Your iPhone?*, Cleveland-Marshall College of Law, September 8, 2016 (moderator)

*The Heat of Passion as Partial Excuse*, CrimFest 2016, Cardozo School of Law, July 11, 2016

*Unpacking Affirmative Consent: Not as Great as You Hope, Not as Bad as You Fear*, AALS Symposium: Violence Against Women, AALS Annual Meeting, January 9, 2016

*Police Use of Force Program Series: The Community Police Commission and Bias-Free Policing*, Cleveland-Marshall College of Law, November 10, 2015 (moderator)

*Unpacking Affirmative Consent: Not as Great as You Hope, Not as Bad as You Fear*, North East Ohio Faculty Colloquium, October 30, 2015

*Arbitrary Law Enforcement is Unreasonable*, Symposium: “Whren at Twenty: Systemic Racial Bias and the Criminal Justice System,” Case Western Reserve University School of Law, Oct. 23, 2015 (panel presentation)

*The Heat of Passion and Blameworthy Reasons to be Angry*, Transformative Debate Series, Cleveland-Marshall College of Law, October 7, 2015 (with Professor Joshua Dressler)

*Police Use of Force Program Series: Use of Technology in Policing*, Cleveland-Marshall College of Law, September 28, 2015 (moderator)

*The Heat of Passion and Blameworthy Reasons to be Angry*, CrimFest 2015, Cardozo School of Law, July 21, 2015

*Cleveland's Consent Decree: The Path Forward*, Cleveland-Marshall College of Law, April 8, 2015 (moderator)

Criminal Justice Forum: *Ferguson, Staten Island and Cleveland: A Legal Discussion about the Use of Lethal Force by Law Enforcement Officers*, Cleveland-Marshall College of Law, January 26, 2015 (panelist)

*The Fatal Flaws in the ‘Sneak and Peek’ Statute, and How to Fix It*, CrimFest 2014, Rutgers School of Law—Newark, July 22, 2014

Criminal Justice Forum: *The Rapid Rise of ‘Sneak and Peek’ Searches, and the Fourth Amendment ‘Rule Requiring Notice’*, Cleveland-Marshall College of Law, March 20, 2014

*JFK’s Assassination and the Law: 50 Years Later*, (presenter on Lee Harvey Oswald’s Interrogation), Cleveland-Marshall College of Law, December 6, 2013

*The Fatal Flaw in the ‘Sneak and Peek’ Statute, and How to Fix It*, Central States Law Schools Association Annual Conference, University of Arkansas School of Law, Fayetteville, Arkansas, October 5, 2013

*New Ideas for Practical Use by Practitioners*, Federal Criminal Practice Seminar, Cleveland, Ohio, August 16, 2013 (with Professors Richard D. Friedman and Eve Brensike Primus)

*The Provocation Doctrine and Tolerable Reasons to be Angry*, Law & Society Association Annual Meeting, May 31, 2013

*The Provocation Doctrine and Tolerable Reasons to be Angry*, DePaul University College of Law, Junior Faculty Exchange Presentation, January 31, 2013

*Covert, Delayed Notice Searching: A Constitutional and Policy Failure—and a Solution*, ABA Criminal Justice Section and the AALS Section on Criminal Justice’s Joint Legal Educators Colloquium: Round Table Workshop, October 25, 2013

*The Provocation Doctrine and Tolerable Reasons to be Angry*, Central States Law Schools Association Annual Conference, Cleveland-Marshall College of Law, October 19, 2012

*Delayed-Notice Search Warrants: A Constitutional Assessment*, Duquesne University School of Law, Junior Faculty Exchange Presentation, February 22, 2012

Criminal Justice Forum II, Constitution Day Speaker: *Mapp v. Ohio and The Exclusionary Rule*, Cleveland-Marshall College of Law, September 20, 2011

*The Problem of Prosecuting Acquaintance Rape: How the Criminal Justice System Responds to Harms in Private Relationships*, Ohio Legal Scholarship Workshop, Cleveland-Marshall College of Law, June 23, 2011 (presenter and organizer)

*Interrogation and the Roberts Court*, Law & Society Association Annual Meeting, San Francisco, June 2, 2011

*Interrogation and the Roberts Court*, Ohio Legal Scholarship Workshop, Capital University Law School, February 5, 2011

BLSA Forum on the Lucasville Prison Riots, featuring Niki Schwartz and Staughton Lynd, Cleveland-Marshall College of Law, November 10, 2010 (moderator)

*Fundamentals of Criminal Law and Procedure in the N.D. Ohio*, Cleveland Metropolitan Bar Association Federal Court Training Seminar, December 2, 2010, and December 6, 2011

University of Toledo School of Law Symposium: *The Military Commissions Act of 2009: Back to the Future or the Fix for a Flawed System?*, February 19, 2010 (moderator)

Presenter: *Dissecting Rita v. United States: What It Means and What It Might Mean*, July 27, 2007, Carl B. Stokes United States Courthouse, Cleveland, Ohio.

## **MEDIA APPEARANCES**

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Over 100 appearances as a regular commentator in local and national media outlets on issues of criminal law and criminal justice.

## Op-eds:

- *All Coercive State Interrogations, Including of Juveniles, Have Constitutional Due-Process Protections*, Cleveland Plain Dealer/Cleveland.com, 12.19.2020, available at <https://www.cleveland.com/opinion/2020/12/all-coercive-state-interrogations-including-of-juveniles-have-constitutional-due-process-protections-jonathan-witmer-rich.html>
- *Kenta Settles' Lengthy Jail Stay Shows How Ohio Bail Reform Has Failed*, Cleveland Plain Dealer/Cleveland.com, 6.24.2020, available at <https://www.cleveland.com/opinion/2020/06/kenta-settles-lengthy-jail-stay-shows-how-ohio-bail-reform-has-failed-jonathan-witmer-rich.html>
- *When Cops 'Steal' Drugs, the Results Can Spin Out of Control*, The New York Times, 5.8.18, available at <https://www.nytimes.com/2018/05/08/opinion/police-drugs-warrants.html>
- *Baseless bias accusation in stay of President Trump's immigration order* (with Joseph Mead and Milena Sterio), op-ed, Cleveland.com, 2.16.17, available at [http://www.cleveland.com/opinion/index.ssf/2017/02/accusations\\_of\\_judicial\\_bias\\_i.html](http://www.cleveland.com/opinion/index.ssf/2017/02/accusations_of_judicial_bias_i.html)
- *Tamir Rice case should go to a jury*, op-ed, Cleveland.com, 10.25.15, available at [http://www.cleveland.com/opinion/index.ssf/2015/10/tamir\\_rice\\_case\\_should\\_go\\_to\\_a.html](http://www.cleveland.com/opinion/index.ssf/2015/10/tamir_rice_case_should_go_to_a.html)
- *Brelo Verdict's Legal Flaw*, op-ed, Cleveland Plain Dealer, 5.29.15, available at [http://www.cleveland.com/opinion/index.ssf/2015/05/brelo\\_verdicts\\_legal\\_flaw\\_jona.html](http://www.cleveland.com/opinion/index.ssf/2015/05/brelo_verdicts_legal_flaw_jona.html)
- *Keep DNA evidence private*, op-ed, Cleveland Plain Dealer, Forum Section, 12.2.12 (with Brendan Heil), available at [http://www.cleveland.com/opinion/index.ssf/2012/12/keep\\_dna\\_evidence\\_private\\_jona.html](http://www.cleveland.com/opinion/index.ssf/2012/12/keep_dna_evidence_private_jona.html)

## SERVICE

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### *External*

Member (appointed), Commission on the Rules of Practice and Procedure in Ohio Courts, 2019-present

Counsel to the Criminal Rules Committee, Commission on the Rules of Practice and Procedure in Ohio Courts, 2010-2019

Member (appointed), Commission on the Rules of Practice and Procedure in Ohio Courts, 2019-2021

Member, Cuyahoga County Bail Task Force, co-chair of Jurisdictional Comparison sub-committee, 2016-2018

Member, Search and Seizure Working Group, Cleveland Community Police Commission, 2018-present

Member, Surveillance and Civil Liberties Working Group, Cleveland Community Police Commission, 2022-present

*Law School*

Bar Passage Committee

Judicial Clerkship Committee

Criminal Justice Forum Speaker Committee

Faculty Affairs Committee

Curriculum Committee (chair, 2011-2013, co-chair, 2017-2018)

Strategic Priorities Committee (elected)

Strategic Plan Task Force

Teaching Committee (chair, 2015-2017)

Strategic Planning Committee

Career Planning Committee (chair, 2018)

*University*

Faculty Senate representative, 2012-2014 (elected)

Faculty Senate Steering Committee, 2012-2013 (elected)

Ad Hoc Presidential Priorities Committee

**MEMBERSHIPS**

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American Bar Association

Law & Society Association

Ohio Bar, 2001-present

*Court Admissions*

United States Court of Appeals for the Fourth Circuit

United States Court of Appeals for the Sixth Circuit

United States District Court for the Northern District of Ohio